

PROPOSED AMENDMENTS TO:
CALIFORNIA CODE OF REGULATIONS
TITLE 2. ADMINISTRATION
DIVISION 2. FINANCIAL OPERATIONS
CHAPTER 2.5. COMMISSION ON STATE MANDATES

Article 1. General

§1181.1. Definitions.

Unless otherwise indicated, the definitions in this chapter and those found in Government Code sections 17510 through 17524 apply to Articles 1, 2, 3, 4.5, 5, 6, 7, 8, and 8.5 of this chapter:

(a) “Affected state agency” means a state department or agency that is responsible, in whole or in part, for implementation, enforcement, or administration of any statute(s) or executive order(s) that is the subject of a claim.

(b) “Amendment” means either: (1) a document that replaces and supersedes or adds new material that substantially relates to a pending claim or request; or (2) the addition or substitution of parties to a pending claim or request.

(c) “Claim” means test claim or incorrect reduction claim.

(d) “Claimant” means the local agency or school district filing a test claim or incorrect reduction claim.

(e) “Commission staff” means the executive director, legal counsel, or other commission employee authorized by the executive director to represent the commission on a specific claim or request.

(f) “Completed” means that all requirements for filing a claim, proposed parameters and guidelines, request to amend parameters and guidelines, request for reconsideration or request to review claiming instructions have been satisfied by the claimant or requestor.

(g) “Filing date” means the date of delivery to the commission’s office during normal business hours. For purposes of meeting the filing deadlines required by statute, the filing is timely if:

(1) the filing was mailed by certified or express mail or a common carrier promising overnight delivery, and

(2) the time for its filing had not expired on the date of its mailing by certified or express mail as shown on the postal receipt or postmark, or the date of its delivery to a common carrier promising overnight delivery as shown on the carrier’s receipt.

(h) “Good cause” may include, but is not limited to the following factors: (1) the number and complexity of the issues raised; (2) a party is new to the case, or other counsel is needed; (3) the individual responsible for preparing the document has other time-limited commitments during the affected period; (4) the individual responsible for appearing at the hearing has other time-limited commitments; (5) illness of a party; (6) a personal emergency; (7) a planned vacation that cannot reasonably be rearranged; (8) a pending public records request; and, (9) any other factor, which in the context of a particular claim constitutes good cause. Good cause may be established by a specific showing of other obligations involving deadlines that as a practical matter preclude filing the document by the due date without impairing quality.

(i) “Incorrect reduction claim” means a claim alleging that the Office of State Controller incorrectly reduced the reimbursement claim of a local agency or school district.

(j) “Informational proceeding” means any hearing designed to gather and assess information to assist the commission in formulating policies; informing the public of commission actions; or obtaining public comment and opinion.

(k) “Interested party” means a local agency or school district; an organization or association representing local agencies or school districts; or a person authorized to represent a local agency or school district, having an interest in a specific claim or request other than the claimant.

(l) “Interested person” means any individual, local agency, school district, state agency, corporation, partnership, association, or other type of entity, having an interest in the activities of the commission.

(m) “Party” means the test claimant, the Department of Finance, Office of State Controller, or affected state agency.

(n) “Rulemaking proceeding” means any hearing designed to adopt, amend, or repeal any rule, regulation, or standard of general application, that implements, interprets or makes specific any provision of Title 2, Division 4, Part 7, beginning with Government Code section 17500 or any other statute enforced or administered by the commission.

(o) “Statewide cost estimate” means the approximate sum of money that local agencies or school districts may have incurred to implement a state mandated program or any increased level of service of an existing mandated program

~~(p)~~(p) “Teleconference” means a conference of individuals in different locations, connected by electronic means, through audio, video, or both.

~~(q)~~(q) “Test claim” means the first claim, including claims joined or consolidated with the first claim, filed with the commission alleging costs mandated by the state as defined in Government Code section 17514.

~~(r)~~(r) “Written material” shall include, but is not limited to, requests and correspondence on substantive and procedural matters, e.g., informal conferences, prehearing conferences, postponements of hearings, extensions of due dates for submission of opposition, recommendations, comments, stipulations, applications for subpoenas and subpoenas duces tecum, witness lists, etc. Test claims, incorrect reduction claims, or amendments thereto, are not considered written material.

NOTE: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections 11123, 17516-17521, 17527(c), 17529, 17530, 17531, 17532, 17551 and 17553, Government Code.

HISTORY

1. New section filed 7-23-96; operative 7-23-96. Submitted to OAL for printing only (Register 96, No. 30).
2. Amendment filed 9-13-99; operative 9-13-99. Submitted to OAL for printing only pursuant to Government Code section 17527 (Register 99, No. 38).

Article 3. Test Claims

§1183.01. Timelines.

(a) In computing any period of time prescribed by these regulations and applicable statutes, the following rules shall apply:

(1) The day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a state holiday.

(2) Days representing extensions of time and postponements of hearings ~~filed-granted to by the claimant and/or by stipulation of the parties, including the claimant,~~ shall be tolled and may not be counted toward the date on which a statewide cost estimate must be adopted by the commission.

(3) Days following a test claimant's submission of incomplete information to the commission, from the date on which commission staff returns the incomplete information to the claimant up to

the date on which the commission receives complete information from the test claimant, shall be tolled and may not be counted toward the date on which a statewide cost estimate must be adopted by the commission.

(4) If more than one test claim is filed with the commission as provided in section 1183, the days following the date the first test claim is filed, up to the date the executive director consolidates part or all of the claims pursuant to section 1183.06, shall be tolled and may not be counted toward the date on which a statewide cost estimate must be adopted by the commission. The days tolled shall not exceed ninety (90) days from the first test claim filing date.

(5) Three (3) days shall be added to any prescribed period in which a party or interested party is required or permitted to do an act after service of a document upon that party or interested party by mail. For purposes of this section, "mail" includes interdepartmental mail between state agencies. The three (3) days added for mail service shall be tolled and may not be counted toward the date on which a statewide cost estimate must be adopted.

(6) Solely for the purpose of determining when a statewide cost estimate shall be adopted, test claims that are amended, severed, or consolidated shall be deemed received on the effective date of the last amendment, severance, or consolidation, unless otherwise stipulated by the parties and approved by the commission.

(7) Days between the effective date of the parameters and guidelines and the date reimbursement claims for initial fiscal years costs are due to the Office of the State Controller shall be tolled and may not be counted toward the date on which a statewide cost estimate must be adopted by the commission.

(b) The following timelines shall be used by commission staff as a reference for the timely processing of test claims and adoption of a statewide cost estimate:

(1) Timeline for a Test Claim (12 Months)

PARTY/ACTIVITIES	DAY NUMBER
CLAIMANT files test claim with the commission.	0
COMMISSION staff begins counting days on the first day after receipt.	1
COMMISSION staff reviews test claim to determine if complete	by 10
COMMISSION staff sends test claim to state agencies for review.	by 10
COMMISSION staff convenes informal conference with parties, if necessary.	by 30
STATE AGENCIES file comments on test claim.	by 40
CLAIMANT submits rebuttal.	by 70
COMMISSION staff completes draft analysis of test claim and serves on parties.	by 100
PARTIES submit comments on staff's draft analysis of test claim.	by 130
COMMISSION staff completes analysis and issues Proposed Statement of Decision.	by 160
COMMISSION hears test claim and adopts Proposed Statement of Decision.	by 180
COMMISSION staff issues Statement of Decision and serves on parties.	by 190

PARAMETERS AND GUIDELINES

CLAIMANT submits proposed Parameters and Guidelines.	by 220
STATE AGENCIES AND PARTIES may file comments.	by 235

CLAIMANT rebuts comments.	by 250
COMMISSION staff completes draft Parameters and Guidelines and serves on parties.	by 265
PARTIES submit comments on staff's draft Parameters and Guidelines.	by 275
COMMISSION staff completes Parameters and Guidelines and serves on parties.	by 279
COMMISSION conducts hearing and adopts Parameters and Guidelines.	by 293
COMMISSION staff issues adopted Parameters and Guidelines.	by 303

STATEWIDE COST ESTIMATE

COMMISSION staff develops Statewide Cost Estimate.	by 335
ALL PARTIES comment on Statewide Cost Estimate.	by 345
COMMISSION staff revises Statewide Cost Estimate.	by 350
COMMISSION conducts hearing and adopts Statewide Cost Estimate.	by 365

(c) Extensions of Time and Postponements of Hearings

(1) Any party or interested party may request an extension of time by filing a request with the commission prior to the date set for filing of responses, opposition, recommendations, rebuttals, or comments with the commission. Such request shall fully explain the reason(s) for the extension, propose a new date for filing, and be simultaneously served on all parties and interested parties who are on the mailing list pursuant to section 1181.2 of these regulations. Any request for extension of time to file comments that would necessitate rescheduling a hearing shall also include a request for postponement of the hearing, pursuant to section 1183.01 (c)(2). Within forty-eight (48) hours of receipt of the request, the executive director shall make a determination and shall notify all parties and interested parties who are on the mailing list of the determination.

(A) A request filed by stipulation of the parties, including the claimant, shall be approved by the executive director for good cause.

(B) A request filed by the claimant, a state agency or interested party may be approved by the executive director for good cause.

(2) Any party may request the postponement of a hearing on a test claim, parameters and guidelines, or statewide cost estimate, until the next regularly scheduled hearing, or other date if specified. Such request shall fully explain the reason(s) for the postponement, and be simultaneously served on all parties and interested parties who are on the mailing list pursuant to section 1181.2 of these regulations. Within forty-eight (48) hours of receipt of such a request, the executive director shall make a determination and shall notify all parties and interested parties who are on the mailing list of the determination.

(A) A request filed by the claimant at least fifteen (15) days before the hearing, shall be approved by the executive director for good cause.

(B) A request filed by stipulation of the parties, including the claimant, shall be approved by the executive director for good cause.

(C) A request filed by the claimant, less than fifteen (15) days before the hearing, may be approved by the executive director for good cause.

(D) A request filed by a state agency may be approved by the executive director for good cause. If a state agency makes such a request before filing a response, opposition, or

recommendation on the test claim, such request shall be accompanied by a notice of intent to oppose the test claim in whole or in part.

(3) The executive director may postpone a hearing on a test claim, parameters and guidelines, and a statewide cost estimate for good cause and shall notify all parties and interested parties who are on the mailing list.

NOTE: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections 17530, 17553, 17555 and 17557, Government Code.

HISTORY

1. New section filed 7-23-96; operative 7-23-96. Submitted to OAL for printing only (Register 96, No. 30).

2. Amendment filed 9-13-99; operative 9-13-99. Submitted to OAL for printing only pursuant to Government Code section 17527 (Register 99, No. 38).

§1183.3. Statewide Cost Estimate.

(a) If the commission determines that there are costs mandated by the state pursuant to Government Code sSections 17514 and 17555 ~~of the Government Code~~, it shall adopt a statewide cost estimate of the amount within twelve (12) months after receipt of a completed test claim unless extended to eighteen (18) months by the commission, ~~except for any extensions or postponements by the claimant, by stipulation of the parties, including the claimant, and except for delays caused by the test claimant's submission of incomplete information to the commission.~~ As provided in section 1183.01, certain days may be tolled and may not be counted toward the date a statewide cost estimate must be adopted by the commission.

(b) ~~Solely for the purpose of determining when a statewide cost estimate shall be adopted, test claims that are amended, severed, or consolidated shall be deemed received on the effective date of the last amendment, severance, or consolidation, unless otherwise stipulated to by the parties and approved by the commission.~~ Commission staff may develop the statewide cost estimate based on initial reimbursement claims filed with the Office of the State Controller or staff may use a different methodology based on recommendations from the test claimant, the Department of Finance, or other interested parties.

(c) ~~The commission staff shall review any recommendation made by the test claimant on how to develop a statewide cost estimate and shall also seek recommendations from the Department of Finance, interested parties, and affected state agencies.~~

~~(d) The statewide cost estimate shall be based on actual and/or estimated costs for the mandated activities set forth in the parameters and guidelines. The commission staff may obtain cost data directly from sources including, but not limited to, state and local agencies and school districts or from statewide associations or organizations representing such local entities. Unless more effective estimating methods can be employed, this information should be obtained from a sample of local agencies or school districts surveyed by the commission.~~

~~(e)(c)~~ Before presenting a statewide cost estimate to the commission for adoption, commission staff shall disclose to the parties and interested parties the methodology, the basis for any assumptions made, and the sources of any data used to develop the estimate. This information may be disclosed to the parties and interested parties to the test claim during an informal conference or prehearing conference.

~~(f)(d)~~ Before adopting the statewide cost estimate, the commission shall hold at least one (1) informational hearing.

~~(g)(e)~~ Upon adoption of the statewide cost estimate by the commission, a summary of the parameters and guidelines and the statewide cost estimate shall be included in the commission's

report to the Legislature required pursuant to [Government Code s-Section 17600](#) ~~of the Government Code~~.

NOTE: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections 17553 and 17557(a), Government Code.

HISTORY

1. Editorial correction of printing error of subsection (a) (Register 86, No. 12).
2. Repealer of subsection (a), new subsections (a)-(f), subsection relettering, and amendment of Note filed 7-23-96; operative 7-23-96. Submitted to OAL for printing only (Register 96, No. 30).
3. Amendment of subsections (a), (b) and (d) filed 9-13-99; operative 9-13-99. Submitted to OAL for printing only pursuant to Government Code section 17527 (Register 99, No. 38).

Article 4. Mandates Recognized the Legislature

§1184.2. Certification of Statewide Cost Estimate.

(a) Costs under \$1,000,000.

Upon adoption of a statewide cost estimate the commission shall certify to the [Office of the State Controller](#) that claims can be paid from the State Mandates Claim Fund provided that the estimated statewide cost [as defined in Government Code section 17577](#) does not exceed \$1,000,000 [and the statute that mandated the new program or higher level of service specifies that reimbursement shall be made from the fund](#).

~~The Controller will then prepare and distribute claiming instructions to all affected local entities, and receive, audit, and pay claims for the filing of claims for reimbursement.~~

(b) Costs over \$1,000,000.

When the statewide cost estimate exceeds \$1,000,000, the commission shall [request funding from report the statewide cost estimate to](#) the Legislature pursuant to [Government Code sSection 17600](#) ~~of the Government Code~~.

NOTE: Authority cited: Sections 17576, 17577 and 17600, Government Code. Reference: Sections 17576, 17577 and 17600, Government Code.

HISTORY

1. Amendment filed 8-26-92; operative 8-26-92 (Register 92, No. 35).

Article 9. Conflict of Interest Code

§1189.10. General Provisions.

The Political Reform Act, Government Code sections 81000, et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (Cal. Code of Regs., tit. 2, §18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments to the Political Reform Act after public notice and hearings. Therefore, the terms of California Code of Regulations, title 2, section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the conflict of interest code of the commission.

Designated employees shall file statements of economic interests with their agency. Upon receipt of the statements of the commission members, their alternates and the executive director, the commission shall make and retain a copy and forward the originals to the Fair Political Practices Commission. Statements for all other designated employees shall be retained with the commission and made available for public inspection and reproduction. (Gov. Code, §81008).

§1189.11. Ethics Orientation.

(a) The commission shall provide an ethics orientation course and establish a schedule for training employees designated in Appendix A by December 31, 2003 and every two calendar years thereafter.

(b) Not later than December 31, 2003, and every two calendar years thereafter, each designated employee shall complete ethics orientation training. Employees who become designated employees after January 1, 2003, shall complete the training within six months of appointment and thereafter according to the schedule established by the commission. Members and alternates of the commission may take training with their employing agency and certify to the commission that they have completed the training.

NOTE Authority cited: Sections 87300, 87301, 87302, 87304 and 87306, Government Code.
Reference: Sections [11146](#), [11146.3](#), 82019, 87206, 87207, 87300, 87301, 87302, 87304 and 87306, Government Code.

HISTORY

1. New article 9 (section 1189.10 and Appendix) filed 12-27-85; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 11-5-85 (Register 85, No. 52).
2. Amendment filed 11-14-91; operative 12-16-91. Submitted to OAL for printing only (Register 92, No. 8).
3. Amendment of Appendix filed 9-8-99; operative 10-8-99. Approved by the Fair Political Practices Commission 7-22-99 (Register 99, No. 37).
4. Amendment of section and Appendix filed 6-25-2002; operative 7-25-2002. Approved by Fair Political Practices Commission 4-30-2002 (Register 2002, No. 26).

Appendix

<i>Designated Employees</i>	<i>Disclosure Categories</i>
Members and alternates of the Commission on State Mandates	1
Executive Director	1
Chief Legal Counsel (Career Executive Assignment)	1
Staff Counsel	1
Staff Services Manager I, II	2, 3
Staff Services Manager III	1
Staff Services Analyst	2, 3

Associate Governmental Program Analyst	2, 3
Graduate Legal Assistant	1
Information Services Technician	2
Assistant Information Systems Analyst	2
Staff Information Systems Analyst	2
Consultants*	1

Disclosure Category

Category 1 designated employees must disclose all investments, and business positions in business entities, interests in real property, income and gifts from any source.

Category 2 designated employees shall report all investments, business positions in any business entity, interests in real property, income and gifts from any source of the type which has contracted, or in the future may contract with the commission to provide services, supplies, materials, machinery or equipment.

Category 3 designated employees shall report all business positions and income from any school district, local governmental agency or special district which has received, or in the future may receive, state reimbursement under article XIII B, section 6 of the California Constitution.

*The disclosure by consultants is subject to the following limitation:

The executive director may determine in writing that a particular consultant, although a “designated employee,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The executive director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.